

REMARKS

Claims 1-3 and 6-21 were pending at the time of the last office action. Applicant has amended claims 1-3 and 14-16 and neither canceled any claims nor presented any new claims. Thus, claims 1-3 and 6-21 are still pending.

The Examiner has rejected claims 1-21 under 35 U.S.C. § 112, second paragraph, as being indefinite. As to claims 1, 6-14, and 17-21, applicant respectfully submits that the Examiner has failed to establish even a prima facie case of indefiniteness of these claims as the Examiner has not provided any rationale for the rejection of these claims. As to claims 2, 3, 15, and 16, although applicant disagrees with the rejection, applicant has amended these claims to address the Examiner's concerns.

The Examiner has rejected under 35 U.S.C. § 103(a) as being unpatentable claims 1, 6, 12, 13, and 17 over Briscoe, Frankel or Hauser, and Wrona and claims 2, 3, 7-11, 15, 16, and 18-21 over Briscoe, Frankel or Hauser, Wrona, and Official Notice. Applicant respectfully disagrees.

As an initial matter, applicant requests clarification. The Examiner has not rejected claim 14 under Section 103. The Examiner, however, mentions claim 14 when discussing claim 13 stating that "Briscoe further discloses wherein the service provider provides services requested by the service consumer." (Office Action, May 18, 2009, p. 6.) Claim 14 is an independent claim that includes several "providing," "receiving," and "requesting" steps. The Examiner has not indicated on what reference(s) claim 14 is rejected or pointed to any reference that describes these steps.

Each of the claims recites that a service provider provides an indication of the number of services within a billing unit to a service consumer or a service intermediary. Independent claim 1 recites that "a computer system of a server consumer" receives "from the service provider a specification of a number of services within a billing unit."

Independent claim 14 recites that “a computer system of a service provider” provides “to a service intermediary a number of services within a billing unit.”

In rejecting the claim 1, the Examiner states that Briscoe discloses “specifying a number of services within a billing unit for the service provide and the service consumer.” (Office Action, May 18, 2009, p. 4.) The Examiner, however, fails to even attempt to point to anything in the relied-upon references that suggests that the service provider provides an indication of the number of services in a billing unit to either a service consumer (as recited by claim 1) or a service intermediary (as recited by claim 14.)

The Examiner states that it would be obvious to “modify the system of Briscoe to include ... code sequence generation ... of Frankel or Hauser in order to achieve the predictable result of reducing computational complexity for the service intermediary and distributing the computations required to calculate the hash chain to the individual service consumer.” (Office Action, May 18, 2009, p. 5.) Briscoe, however, already describes that the user (or service consumer) generates such a code sequence. In particular, Briscoe states the “user then uses a publically [sic] known hash function to operate on the serial number to produce a first hash value, and then operates on the first hash value with the hash function to produce a second hash value, and so on.” (Briscoe, 1:65-2:1.) Since Briscoe already distributes the generation of the code sequence to the users, this cannot possibly be a motivation to modify Briscoe based on Frankel or Hauser as suggested by the Examiner.

The Examiner has provisionally rejected claims 1-21 based on nonstatutory obviousness-type double patenting based on U.S. Patent Application No. 10/789,808. The Examiner, however, has provided no explanation as to why he believes that the claims are “not patentably distinct.” As such, the Examiner has not established a prima facie case of double patenting. Since the rejection is provisional, applicant will further address the rejection, if and when, it is made nonprovisional.

The Examiner takes Office Notice that “it was well known in the art at the time of the invention for a business to calculate the ... quantity of service per billing unit it is willing to provide.” (Office Action, May 18, p. 6.) Applicant respectfully traverses this taking of Official Notice. Claim 1, for example, recites “the billing unit ... indicating a number of codes in a sequence from a start code to an end code.” Applicant is unaware of any business that generates such a billing unit and respectfully requests that the Examiner point to a reference to support his position.

As to the “Claim Interpretation” section of the Office Action, claims 1 and 14 contain different language and limitations although they are directed to the same overall inventive concept. The Examiner statement that “they are not patentably distinct” is conclusory in that the Examiner provides no explanation as to why he considers them to be “not patentably distinct.” Moreover, as discussed above, the Examiner has not even rejection claim 14 under Section 103(a) and provided no support for the rejection of either claim 1 or 14 under Section 112, second paragraph.

Further, as to the “Claim Interpretation” section, the Examiner’s statement relating to “optional claim elements” is inadequate to apprise applicant of what specific language of the claims the Examiner believes is optional. Thus, applicant has no idea what elements the Examiner believes are optional and thus given “less patentable weight” by the Examiner. (Office Action, May 18, 2009, p. 9.)

Based upon the above amendments and remarks, applicant respectfully requests reconsideration of this application and its early allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-8548.

Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 418268003US from which the undersigned is authorized to draw.

Dated: 8-18-09

Respectfully submitted,

By Maurice J. Pirio

Maurice J. Pirio

Registration No.: 33,273

PERKINS COIE LLP

P.O. Box 1247

Seattle, Washington 98111-1247

(206) 359-8548

(206) 359-9000 (Fax)

Attorney for Applicant